



DOCKET NO.: C1039.70083US06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Krieg et al.
Serial No.: 10/789,051
Confirmation No.: 8295
Filed: February 26, 2004
For: IMMUNOMODULATORY OLIGONUCLEOTIDES
Examiner: Oluwatosin A. Ogunbiyi
Art Unit: 1645

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 21st day of February, 2007.


Jameson K. Herrick

MAIL STOP AMENDMENT

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

- Information Disclosure Statement
- PTO Form 1449 with cited references
- Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 646-8000, Boston, Massachusetts.

A check is not enclosed. If a fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,

By:


Helen C. Lockhart, Ph.D., Reg. No.: 39,248
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
Telephone: (617) 646-8000

Docket No.: C1039.70083US06
Date: February 21, 2007
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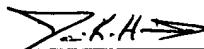
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Alexandria, VA 22313-1450

STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing of a first Office action on the merits in the above-identified case.

No fee or certification is required.

PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified PTO/SB/08). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

The Applicant would like to bring to the Examiner's attention the following co-pending applications that may contain subject matter related to this application:

<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>	<u>Docket No.</u>
10/811,226	03-26-2004	Wagner et al.	*C1041.70005US01
11/503,377	08-11-2006	Krieg et al.	*C1039.70061US01
11/503,483	08-11-2006	Krieg et al.	*C1039.70048US22
11/507,079	08-18-2006	Krieg et al.	*C1039.70035US04
11/526,197	09-22-2006	Krieg et al.	*C1039.70048US23
11/526,896	09-22-2006	Bratzler et al.	*C1037.70013US03
11/542,845	10-04-2006	Krieg et al.	*C1037.70048US01
11/543,314	10-04-2006	Lipford et al.	*C1041.70036US02
11/595,823	11-10-2006	Wagner et al.	*C1041.70035US01
11/598,207	11-10-2006	Krieg et al.	*C1039.70048US24
11/603,978	11-22-2006	Forsbach et al.	*C1041.70053US02
11/629,106	12-08-2006	Lipford et al.	*C1041.70027US01
11/645,106	12-22-2006	Krieg et al.	*C1039.70083US17

*A copy of this reference is not provided as the Office has waived the requirement under 37 C.F.R. 1.98(a)(2)(iii) for submitting a copy of a cited U.S. patent application if it is scanned to the Image File Wrapper system and is available on Private PAIR.

The Applicant would like to bring to the Examiner's attention the following other information, whose relevance is discussed in Part III below:

PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

The following are remarks concerning the other information cited:

The instant patent application derives priority from US 6,194,388 B1, which is a priority application for US 6,207,646 B1, which was involved in Interference No. 105171. In view of the priority, Applicants have included on the attached 1449 a listing of all of the motions filed, the judgment rendered by the Board of Patent Appeals and Interferences, appeal briefs, and appeal decision, which considered the 35 U.S.C. §135(b)(1) motion dispositive. Copies of these documents were previously submitted in Serial No. 10/690,495, filed October 21, 2003, to which the instant application derives priority. If the Examiner would like any additional information on this subject, he is encouraged to contact Applicant's representative at the number listed below.

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 (modified PTO/SB/08) be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

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By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,

By:



Helen C. Lockhart, Ph.D., Reg. No. 39,248
Wolf, Greenfield & Sacks, P.C.
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Boston, Massachusetts 02210-2206
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FORM PTO-149/A (10-03-03) B (modified PTO/SB/08) INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICATION NO.: 10/789,051	ATTY. DOCKET NO.: C1039.70083US06		
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				APPLICANT: Krieg et al.			
				GROUP ART UNIT: 1645		EXAMINER: Oluwatosin A. Ogunbiyi	
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U.S. PATENT DOCUMENTS

Examiner's Initials #	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or Issue of Cited Document MM-DD-YYYY
		Number	Kind Code		
		5,023,243		Tullis	06-11-1991
		5,087,617		Smith	02-11-1992
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DATE CONSIDERED:

[#] EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

FORM PTO-1449/A and B (modified PTO/SB/08) INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICATION NO.: 10/789,051	ATTY. DOCKET NO.: C1039.70083US06
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				GROUP ART UNIT: 1645	EXAMINER: Oluwatosin A. Ogunbiyi
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Examiner's Initials #	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Translation (Y/N)
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*	WO	91/12811		A1	ISIS Pharmaceuticals Inc.	09-05-1991	
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OTHER ART – NON PATENT LITERATURE DOCUMENTS

Examiner's Initials #	Cite No	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation (Y/N)
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